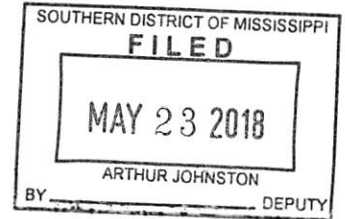


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION



MICHAEL COLLIER,
TYRONE DUCHARME, and
BRENDAN KAVANAUGH

PLAINTIFFS

V.

CIVIL ACTION NO. 2:18cv88-KS-MTP

GROVE TRANSPORTATION COMPANY
OF MISSISSIPPI, LLC
D/B/A GROVE TRANSIT

DEFENDANT

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1331, 1441, and 1446, Defendant, Grove Transportation Company of Mississippi, LLC d/b/a Grove Transit (“Grove Transit”), subject to all of its defenses, including its Rule 12 defenses, hereby removes the action filed under Cause No. W18-0062 in the Circuit Court of Forrest County, Mississippi, to the United States District Court for the Southern District of Mississippi, Eastern Division, and states as follows:

1. On or about April 16, 2018, the above-named Plaintiff filed its Second Amended Complaint styled *Michael Collier and Tyrone Ducharme v. Grove Transportation Company of Mississippi, LLC, d/b/a Grove Transit* Cause No. W18-0062, in the Circuit Court of Forrest County, Mississippi. See Exhibit “A.”

2. 28 U.S.C. § 1446(b) mandates that “[t]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise [of the complaint and summons].” Grove Transit was served with the Summons and Second Amended Complaint on April 24, 2018; therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b). Plaintiffs did not serve the original or Amended Complaint on Grove Transit.

3. The current action is one of a civil nature, wherein the United States District

Court for the Southern District of Mississippi, Eastern Division, has original federal question jurisdiction (28 U.S.C. § 1331) by reason of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et. seq.*

4. Upon information and belief, Plaintiffs are seeking damages, including punitive damages, pecuniary and non-pecuniary damages, resulting in a matter in dispute in an amount not yet determined.

5. Defendant Grove Transit is a limited liability company organized under the laws of the State of Mississippi and has its principal place of business in Hattiesburg, Forrest County, Mississippi.

6. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Grove Transit in the state court action is attached hereto as Exhibit “A.”

7. Pursuant to 28 U.S.C. § 1446(d), all parties are being provided with written notice of removal, and a copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Forrest County, Mississippi.

8. In accordance with Rule 5(b) of the Local Uniform Civil Rules of the United States District Courts for the Northern and Southern Districts of Mississippi, a complete copy of the state court record will be filed no later than fourteen (14) days from the date of removal.

9. Nothing in this Notice of Removal shall be interpreted as a waiver, estoppel, preclusion or relinquishment of Grove Transit’s ability or right to assert any claim, counterclaim, cross-claim, third party claim, defenses or affirmative matter, including, but not limited to: (1) lack of jurisdiction over the person; (2) improper venue; (3) insufficiency of process; (4) insufficiency and/or failure of service of process; (5) improper joinder of claims and/or parties; (6) failure to state a claim; (7) failure to join an indispensable party(ies); (8) waiver; (9) arbitration and award; (10) contractual, statutory, common law or other right to defense,

indemnity, contribution or apportionment; or (11) any other pertinent claim or defense available under Rule 12 of the Mississippi or Federal Rules of Civil Procedure, any state or federal statute, common law or otherwise.


10. Grove Transit reserves the right to supplement and/or amend this Notice of Removal pursuant to the Federal Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, Grove Transit requests that this action proceed in this Court as an action properly removed to it. Plaintiffs are hereby notified to proceed no further in state court.

RESPECTFULLY SUBMITTED, on this the 23rd day of May, 2018.

GROVE TRANSPORTATION COMPANY
OF MISSISSIPPI, LLC D/B/A GROVE
TRANSIT, DEFENDANT

BY:


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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned herein states that he has this day served upon the following persons a true and correct copy of the foregoing instrument by first class U.S. mail, postage prepaid, and by way of the ECF filing system for the USDC-Southern District of Mississippi:

Daniel M. Waide, Esq.
Johnson Ratliff & Waide, PLLC
P.O. Box 17738
Hattiesburg, MS 39404
dwaide@jhrlaw.net

SO CERTIFIED, this the 23rd day of May, 2018.


Seth M. Hunter (MSB#101145)